

Andhra Pradesh Municipalities Act, 1965 - An Overview of the Act

1. Historical background

When the State of Andhra was formed (1 October, 1953) by bifurcation of the then Madras State (now Tamilnadu), the municipalities in the State were governed under Madras District Municipalities Act, 1920. This Act was adapted in Andhra State as the Andhra District Municipalities Act, 1920.

Later, Andhra Pradesh was formed (1 November, 1956) by merging the Andhra State and the telugu-speaking districts of the then Hyderabad State. While the municipalities in Andhra area were governed under Andhra District Municipalities Act, 1920, the municipalities in Hyderabad State were governed under Hyderabad District Municipalities Act, 1956. The Government of Andhra Pradesh adapted both the Acts in the State and they were named as Andhra Pradesh (Andhra Area) District Municipalities Act, 1920 and Andhra Pradesh (Telangana Area) District Municipalities Act, 1956. Thus while the municipalities in Andhra area were governed under Andhra Pradesh (Andhra Area) District Municipalities Act, 1920, the municipalities in Telangana area were governed under Andhra Pradesh (Telangana Area) District Municipalities Act, 1956.

Though the basic structure of both the Acts were similar, there was no uniformity in provisions relating to elected representatives, municipal functionaries, functions, powers and responsibilities etc. It was therefore proposed to legislate a uniform municipal act for the entire State covering the Andhra area as well as Telangana area. This resulted in the passage of Andhra Pradesh Municipalities Act, 1965. Since it was an Act integrating two Acts covering two areas of the State, the assent of the President of India was also obtained and the Act came into effect on 2 April, 1965. With coming into force of the Act, the earlier Andhra Area Act of 1920 and Telangana Area Act of 1956 were repealed.

The State of Andhra Pradesh was subsequently bifurcated as State of Andhra Pradesh and State of Telangana on 2 June, 2014. While the 1965 Act remained with the same title for Andhra Pradesh, it has become Telangana Municipalities Act, 1965 in the State of Telangana, after the State has adapted the 1965 Act.

2. Structure of the Act

The 1965 Act is very exhaustive. Though it is exhaustive in many respects, it has been amended number of times consequent on reform agenda, administrative contingencies, Constitutional and other statutory compliances, political and policy changes etc. Some noteworthy changes are:

- In the year 1978 relating to assessment of property tax
- In the year 1987 incorporating various electoral reforms
- In the year 1989 incorporating reforms in the levy of property tax
- In the year 1994, consequent of Constitution 74th Amendment Act, 1993
- In the year 2005, incorporating corrupt practices, election expenses and miscellaneous election matters
- In the year 2008, introducing community participation and public disclosure in the municipalities as a reform under JNNURM.

The Act consists of 391 sections and 9 schedules. Further, all the sections are grouped into various parts and chapters. There are 7 parts and each part contains certain chapters and each chapter again consists of certain sections. The structure looks as below.

Part		Chapter		Section
I	Preliminary	-		1 – 2 A
II	Constitution of municipalities and Constitution or appointment of municipal authorities	I	Constitution of municipalities	3 – 3 A
		II	Constitution or appointment of municipal authorities	4 - 29
		III	Powers and functions of municipal authorities	30 - 58

		IV	Controlling authorities and their powers	59 - 70
III	Municipal establishment – Officers and employees of or under the Council	-		71 - 80
IV	Taxation	I	Taxation	81 - 124
		II	Finance, Budget, Loans and Advances	125 – 132 A
V	Public health, Safety and Convenience	I	Water supply, Lighting and Drainage	133 -163
		II	Scavenging	164 – 170 A
		III	Streets	171 - 201
		IV	Building Regulations	201 - 230
		V	Nuisance	231 - 258
		VI	Licences and Fees	259 - 307
		VII	Vital statistics and Prevention of diseases	308 -325

VI	Subordinate legislation and Penalties	I	Rules, Byelaws and Regulations	326 - 335
		II	Penalties	336 -343
		III	Corrupt practices and election offences	343 A – 343 T
		IV	Miscellaneous election matters	343 U – 343 ZA
		V	Election expenses	343 ZB – 343 ZD
		VI	Appointment of observers	343 ZE
VII	Procedure and Miscellaneous	-		344 - 391

3. Brief details of various provisions of the Act

We now consider various provisions of the Act briefly part-wise.

3.1 Part I: Preliminary

This part contains 2 sections and they relate to the title of the Act and definitions of various words used in the Act for clarity and to avoid confusion.

3.2 Part II: Constitution of municipalities and Constitution or appointment of municipal authorities

It is an important part of the Act and this part consists of 4 chapters and sections 3 to 70.

Chapter I relates to constitution and abolition of municipalities. This chapter details as to when a local area is constituted as a municipality, the criteria for constitution of

a municipality and how a local area is included in or excluded from the municipality. Certain rules were also issued relating to the subject matter. This part also contains as to how and when a municipality can be abolished.

Chapter II deals with the municipal authorities. Four (4) authorities have been identified for carrying out various provisions of the Act and they are (i) council, (ii) chairperson, (iii) commissioner and (iv) ward committee. This chapter details the constitution of council, elections to council, ward division, role of State Election Commission, election of chairperson, constitution of ward committees and appointment of commissioner.

Chapter III refers to powers and functions of municipal authorities. The municipal authorities have certain powers to exercise, functions to perform and duties to discharge. This part details the powers and functions of council, chairperson, members of council and of commissioner.

Chapter IV deal with controlling authorities and their powers. Since the municipalities have been constituted by the State Government, the State Government is responsible for proper functioning of the municipalities and therefore should have certain controlling power over them. This chapter details the powers of Government over municipalities. The powers of the Government include cancellation of resolutions, suspension of chairperson or vice chairperson or members, removal of chairperson or vice chairperson and also dissolution of council. Since District Collector is the representative of the Government at district level, he also has certain controlling power over the municipalities in his jurisdiction, the major being suspension of council resolution and reporting to Government.

3.3 Part III: Municipal establishment – Officers and employees of the council

This part contains 10 sections, 71 to 80. There are three levels of officers and employees in the municipality. The senior level officers belong to state government service. The middle level officers and employees are state level municipal officers and employees and they belong to state municipal service. The lower level employees belong to the (respective) municipal service.

3.4 Part IV: Taxation and other finance matters

This part has two chapters with sections 81 to 132 A.

Chapter I of the part deals with levy and collection of various taxes. Taxes which a municipality can levy are property tax (house tax and vacant land tax), tax on carriages and carts, tax on animals and advertisement tax. The basis for levy of tax and rate of tax of various taxes are detailed. Similarly, the maintenance of registers and matters relating to collection are also detailed in this chapter. Government is empowered to constitute State Property Tax Board and matters relating to constitution of the Board, the powers and functions of the Board and other details relating to the Board have also been provided.

Chapter II refers aspects relating to municipal fund, budget, municipal accounts, loans and advances etc. The preparation of budget and finalisation of annual accounts are important activities and the details are available in this chapter. The State Finance Commission and its role in municipal finances has also been referred in this chapter.

3.5 Part V: Municipal functions

The basic municipal functions are broadly relate to public health, safety and convenience. This part details all the activities a municipality undertakes. This part is very elaborate with 7 chapters and 193 sections running from 133 to 325. The functions are broadly service-related and regulatory related and both of them are referred in this part.

Chapter I of this part relates to water supply, lighting and drainage. This chapter contains sections 133 to 163. All details relating to maintenance of water works, supply of drinking water for residential and other users, control over water connections, disconnection of water supply etc. are covered under water supply. It is also provided that all public streets should be suitably lighted. Then, the provision for drainage and toilets has been referred. The provision and maintenance of public drains as well as house-hold drains have been referred. Similarly, the provision of public toilets and their maintenance along with the regulation and maintenance of house-hold toilets have also been referred. The matters relating to drains and toilets are referred in sections 147 to 159.

Chapter 2 deals with scavenging, in other words, general sanitation. This is the most important service function or activity of the municipality. This chapter details that the municipality has to remove rubbish and filth from the streets, drains, and public and private toilets and undertake the disposal of waste, both solid waste and liquid waste. All these activities are covered in sections 164 to 170 A.

Then, it is chapter 3 which deals with streets, covering public streets, private streets, encroachment on streets, naming of streets and numbering of buildings. The functions relating to public street are covered in sections 171 to 183. The major activity is maintenance and repairs of public streets, closure of public streets, improvement of public streets, setback for buildings, watering of streets and protection of appurtenances and materials of streets etc. The functions relating to private streets are basically related to making layouts by private persons and their obligation to adhere to overall master plan requirement, formation of streets and handing over the streets so laid to the municipality. These issues are covered under sections 184 to 188. The regulation of encroachments on public streets is covered in sections 189 to 201 in the form of their removal, allowing certain unobjectionable encroachments and licencing them, protection of streets etc. This chapter also covers naming of public streets and numbering of buildings.

Chapter 4 is a crucial regulatory activity of the municipality, ie., building regulations and contains section 202 to 229. All activities relating to construction of buildings, ie., permission for construction of buildings, approval for building site, period within which permission to be granted, deemed permission, grounds on which permission could be denied, time allowed for completion of construction and lapse of permission etc. have been covered. Similarly, issues relating to unauthorised construction, action on unauthorised constructions etc. are also covered in the chapter.

Chapter 5 deals with nuisance and abatement of nuisance; and contains sections 231 to 258. This chapter deals with precautions in case of dangerous structures, trees, tanks, wells and holes; stoppage of dangerous quarrying and precaution against fire. It also covers control over construction of wells and tanks, regulation of certain kinds of cultivation, washing of animals and clothes etc. Control over

abandoned lands and buildings, noxious vegetation, insanitary building, overcrowding of buildings, stray animals and pigs etc. are also covered in this chapter.

The next is chapter 6 and it deals with an important subject of Licences and Fees and contains sections 259 to 307. Fee is one of the major non-tax revenues of the municipality and it is one of internal resources. Among various fees the municipality levies and collects, licence fee is an important one. It is necessary to note the difference between tax and fee. While tax is a compulsory exaction of money by public authority for public purpose, fee is a charge for special services rendered to an individual by the government or public authority. Thus a fee being levied essentially for services rendered in return, there is an element of quid pro quo between the person who pays the fee and the public authority which levies and collects it. The municipality licences many activities, collect licence fee and issues licence to carry on the activities. The activities which are governed under licences include cattle sheds, cow sheds and stables. Another important licencing activities relate to running of trades, constructing and establishing factories and workplaces etc. This chapter contains licencing of slaughter houses as well as slaughtering of animals. This chapter also covers establishment of municipal markets, cart stands, licencing the exposure of various articles for sale in the markets, collection of fee in the markets, and regulation of private markets. Powers relating to inspection and regulation of markets and seizure of deceased/diseased animals and noxious food etc. are also covered. Another important activity of the municipality is disposal of dead. Various aspects relating to disposal of dead like licencing of places for disposal of dead, register of burial grounds, reporting of burials and burnings, regulation of burial and burning grounds and licensing of grave diggers etc. are covered under this activity.

Chapter 7 deals with vital statistics and infectious diseases. Registration of vital statistics covering births and deaths is a very important regulatory activity of the municipality. Section 308 specifies that municipality has to compulsorily register the births and deaths occurred in the municipal area and information relating to births and deaths shall be given to the municipality. The other part of the chapter relates to infectious disease and smallpox. The chapter details various infectious diseases and measures to prevent its spread. The premises affected with infectious disease need be thoroughly disinfected, infected articles be destroyed, infected patients be

removed to hospital and related activities are detailed in the chapter. As regards other activities, they are compulsory vaccination for smallpox, and undertaking of anti-malarial and mosquito control measures.

3.6 Part VI: Subsidiary legislation and penalties

While legislation mean the law passed by the Legislature in the form of an Act, subsidiary legislation is the law passed by the Executive in the form of rules; and by the institution which has been established by the Act in the form of bye-laws or regulations. All these forms of legislation have equal force of enforceable law. In this context, the Executive means the Government and Government issues the Rules. Similarly, the institution established by the Act is the Council and the Council makes the byelaws. This part contains 6 chapters.

Chapter 1 relates to issue of rules, byelaws and regulations and contains sections 326 to 335. The Act empowered Government to issue rules. Rules are issued in the form of a notification and they are published in Andhra Pradesh Gazette. Government also has powers to alter the schedules in the Act. Regarding bye-laws, Council has to make draft bye-laws, seek suggestions from public on the draft, confirm the bye-laws, get approval from Government and publish them in the District Gazette. Copies of rules and byelaws have to be sold at a price to the public and should be made available at municipal office.

Chapter 2 deals with penalties and contain sections 336 to 343. The Act specifies certain penalties and prescribes the amount of fine against each penalty and they are specified in schedules VI and VII. Other omissions which attract penalties are also specified and they are like persons acting like member, chairperson etc when not qualified, interest of municipal officers in contracts and works, omission to take out a licence for carriage or animal, wilful prevention of distraint, unlawful building construction etc.

Chapter 3 deals with election offences. The chapter is introduced during 2005 and cover sections 343 A to 343 T. Corrupt practices during elections and electoral offences are covered in the chapter. They are very specifically detailed. Corrupt practices cover bribery, undue influence, appealing for vote or refrain to vote, promotion or propagation of enmity or hatred, hiring or supplying of vehicles,

incurring unauthorised expenditure and booth capturing etc. Similarly electoral offences cover disturbance during meetings, holding meetings beyond the allowed timings, canvassing near polling stations, misconduct near polling stations, moving with arms near polling station, tampering with ballot papers, selling liquor on polling day etc.

Chapter 4 deals with miscellaneous election matters and covered in section 343 U to 343 ZA. This chapter is also inserted during 2005. The matters cover adjournment of poll in emergencies, ordering fresh poll, destruction and loss of ballot papers etc. It is specifically mentioned that all election related disputes should be made through election petition and should made to an authority specifically meant for the purpose.

Chapter 5 deals with election expenses and are covered in sections 343 ZB to 343ZD. This chapter is also inserted during 2005. Expenses in connection with the election incurred by the candidates have to be accounted for in a format specified by State Election Commission (SEC). The expenses shall conform to the authorised purposes and do not exceed a limit specified by SEC. The candidate shall lodge the statement to the District Election Authority within 45 days from the date of declaration of results.

Chapter 6 deals with appointment of observers and it is covered in section 343 ZE. The SEC is competent to appoint Election Observer to watch the conduct of elections. Similarly, he may appoint Election Expenditure Observer. The Observers may be appointed for a group of wards in a municipality or a group of municipalities. This provision is also inserted during 2005.

3.7 Part VII: Procedure and miscellaneous provisions

This part contains section 344 to 391. This part is not divided into chapters. This part deals with general provisions regarding licences and permissions. Every licence should be granted after collecting fee on such units and at such rates. The licence should be in writing and contain the period of licence and conditions or specifications subject to which licence is granted.

There is a provision for appeal to the council on the actions taken by Commissioner and other officers. There is time limit to file appeals. Issues relating to power of summoning by municipal officials, signature on documents, method of serving

documents, relationship between owner and occupier, power of entry and inspection by municipal officials, power to enforce licencing provisions etc. are covered in this part.

Issues relating to legal proceedings are also covered. They include payment of compensation by and to the municipality, recovery of sums due to municipality, limitation for recovery of dues, persons empowered to prosecute, institution of suits against municipal officials, institution of civil and criminal actions, indemnity to municipal officials for actions done in good faith, liability for loss of municipal money, prosecution of municipal officials etc. are also covered.

As regards police help to municipality, it is provided that every police officer should assist the municipal officials and a police officer is authorised to arrest any person who commits any offence against any provision of the Act. The Government can empower any municipal official with police powers.

This part specified a format for oath-taking of an elected member before taking his seat in the council.

In this part, Government is empowered to delegate any of their power to any officer through a notification in the State Gazette. It also empowered Government to give direction to the Council to carry out the provisions of the Act.

Another important provision in this part is adjudication of disputes between local authorities. Whenever there is a dispute among the municipality and another local authority and if it seems that it cannot be resolved, Government may intervene and either decide the issue or refer the dispute to an arbitrator. The decision of the Government or arbitrator is final and cannot be questioned in a court of law.

Certain important provisions have been subsequently inserted in this part

Notified Areas (Section 389 A): This provision was inserted in the year 1969. Government may declare any local area as a notified area and appoint a committee for enforcing the provisions of this Act.

Transfer of municipal powers and functions to APIIC (Section 389 B): This provision was introduced in 1994. In order to develop the industrial areas by State Industrial Infrastructure Corporation, Government desired that certain powers and functions of

municipality may be transferred to the State Industrial Infrastructure Corporation to exercise and perform in certain areas notified. The areas (industrial areas) in different municipalities and the municipal powers and functions transferred have been notified by Government from time to time and for the sake of convenience, those areas are now called as Industrial Area Local Authorities (IALAs).

Disclosure of information (Section 389 C): This section was introduced during 2009. As an urban reform of transparency, municipal information has to be mandatorily notified for public information. This section details the manner of disclosure of information to general public and also the information per-se to be disclosed.

This part also has the usual provision relating to repeal of existing Acts. Since the Act desires to integrate the old Madras Municipalities Act (applicable in Andhra area) and Hyderabad Municipalities Act (applicable in Telangana area), these Acts were repealed.

4. Schedules

The Act has 9 schedules and they are detailed below.

Schedule 1 – It consisted rules regarding proceedings of the council and there are 13 rules

Schedule 2 – It contain taxation and finance rules in 2 parts. Part 1 relates to taxation rules and it contains rules 1 to 38. Part 2 relates to finance rules and they are rules 39 to 61.

Schedule 3 – Building Rules and they were deleted during 2008.

Schedule 4 – These rules details the purposes for which premises may not be used without a licence. In other words, the schedule details the list of trades for which licence has to be taken

Schedule 5 – List of infectious diseases

Schedule 6 – Ordinary penalties. This schedule lists the actions and activities which are contrary to the Act and on which fines can be levied. The relevant sections and the amount of fines are also listed for various omissions.

Schedule 7 – Penalties for continuing breaches – If any omission under the Act is repeated, it can also be fined treating the omission as a continuing breach. Such continuing breaches and the amount of fines together with the corresponding sections of the Act are listed in the schedule.

Schedule 8 –It contained a list of municipalities in Andhra area constituted prior to 1-4-1961 and the amount of compensation payable to them towards loss of income through tolls or vehicle tax or both. These compensations were discontinued after Government agreed to pay salaries and pensions to municipal employees through Government treasuries and accordingly the schedule was omitted during 2009.

Schedule 9 – Transitional provisions. Certain issues may arise in implementing the provisions of the new Act, which integrated two different Acts. To address those issues and also to take care of possible other administrative issues, certain transitional provisions have been made in the Act. These provisions helped in smooth transmission to the new regime.

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